

Zip Co Ltd - Responses Questions on Notice Senate Select Committee on Fintech and Regtech Sydney hearing 19 February 2020

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Senator MARIELLE SMITH: On the research and development tax incentive, we've heard various views from fintechs about the ability to access the scheme—the difficulty navigating it—particularly for software development, and from others who say that it's been fantastic and was necessary for the very development of their business. What's your perspective on the tax incentive and where it could be improved?

Mr Gray: I'm possibly not the best person within my business to talk to that, but we have found certain aspects of it reasonably challenging, particularly with tracking. I would say it hasn't made a meaningful impact in terms of the development of the Zip business in its totality. I think it's a very good concept to provide support, if you look at what government can do to support fintechs, and there are taxing incentives or other benefits that can be provided to start-ups.

Senator MARIELLE SMITH: Would you be able to take that on notice, in case there is someone else in your team who can provide information on that?

Mr Gray: Absolutely.

Zip response

Zip has previously received an R&D incentive but as the process has been more complex, and the cost of lodging the last return equalled the value or the incentive, it is unlikely Zip will lodge further claims under the R&D scheme. More generally, Zip believes the R&D incentive provides important benefits to a number of fintech companies and should be retained.

Many fintech companies undertaking R&D rely on the R&D incentive to help fund the development of their innovative new products and services. This is particularly true in the often unprofitable early years (when there is a significant technology spend but revenues are still low and growing).

A number of improvements could be made to the program, including:

- The refundable tax incentive is particularly attractive. But given the compliance costs, the program is not attractive for a fintech company once it reaches over \$20 million in turnover. To explain - under \$20 million turnover companies get a cash rebate back based on their R&D spend. Over \$20 million and they get an additional tax deduction. But it is the cash refund every year that is very attractive for fast-growth technology companies. Additional losses that might be used years down the track is far less attractive as it does not help with cashflow in the short term. As such consideration should be given to raising the \$20 million turnover cap to \$50 million;
- The way the R&D program has been administered historically has created uncertainty among companies and their advisors, and has undermined the policy intent of the legislation;
- Ensuring risk and compliance activities are conducted as close as possible to when companies register their R&D activities and before they claim the benefit with the ATO. Retrospective compliance activity, especially after refunds are received and

then claims amended to reduce or reject them, has a devastating impact on the companies, with many facing financial ruin;

- One agency should be responsible for the R&D incentive, rather than two separate agencies, as is the current arrangement.[AusIndustry (Department of Industry Innovation and Science) and Australian Taxation Office].
- Guidance materials for the software/technology industry need to be improved and made much more practical;
- Improvement needed on the internal review process for businesses adversely affected by poor processes or decisions that they do not agree with. This internal review process also needs to be made more independent of the agency doing the initial assessment;
- Substantiation and recordkeeping requirements should reflect commercial practicality with regulator personnel fully equipped to understand and collaborate with small business.

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Senator McDONALD: What about privacy laws? Are there specific examples where you think we could be looking to the future and where you would recommend a better alignment?

Mr Gray: I think I'd probably take that one on notice to come back with a detailed response.

Zip response.

The Australian Finance Industry Association (AFIA) is an industry association of which Zip is a member. In September 2019, AFIA made a submission commenting on the ACCC's Digital Platform Inquiry Final Report. That submission also discussed the policy fragmentation around privacy and data in the context of the reforms going on in this space. These reforms included:

- Open Banking/Consumer Data Right (CDR) privacy protections;
- privacy measures in the credit reporting system including as part of mandating comprehensive credit reporting (CCR); and
- the current Privacy (Credit Reporting) Code 2014 amendments.

These reforms are being driven by different agencies and Government departments and are designed to implement Productivity Commission (PC) recommendations from the PC's 2017 report *Inquiry into Data Availability and Use*.

AFIA pointed out that cohesive and holistic implementation was supposed to be a foundation of the PC's recommendations.

However, the reality is quite different to that proposition, with a fragmented implementation where no one agency has final responsibility. Zip agrees with AFIA's proposition that consumers are likely to be confused by this approach with the same types of personal data being subject to differing protections depending on who receives it and how. This outcome would be contrary to what the Productivity Commission envisaged and could undermine the Government's objectives of enhancing competition for consumer benefit.

Zip also agrees with AFIA's recommendation that Government implementation be far more co-ordinated, more cohesive and holistic and, specifically, that any future changes to privacy obligations be closely aligned with the Consumer Data Right.